

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

LUIS ENRIQUE VAZQUEZ-
HERNANDEZ,

Petitioner,

vs.

JON M. GURULE, et al.,

Respondents.

Case No. 3:14-cv-00427-RCJ-VPC

ORDER

The court directed petitioner to show cause why this action should not be dismissed either because petitioner was not in custody pursuant to a judgment of conviction of a state court or because the action was untimely. Order (#6). Petitioner has filed a response (#12). The court is not persuaded, and the court dismisses this action.

Petitioner argues that the court should consider his petition because he is facing immigration consequences from his convictions. The court already considered that possibility and rejected it in its order to show cause. Immigration consequences from a conviction are collateral consequences to the conviction, and thus the person is not in custody for the purposes of 28 U.S.C. § 2254. Resendiz v. Kovenski, 416 F.3d 952, 957 (9th Cir. 2005), abrogated on other grounds by Chaidez v. United States, 133 S. Ct. 1103 (2013).

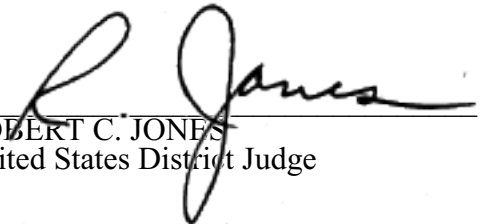
Petitioner did not address at all the court's determination that this action is untimely. That is a separate and alternative reason for dismissing this action.

Reasonable jurists would not find the court's conclusions to be debatable, and the court will not issue a certificate of appealability.

1 IT IS THEREFORE ORDERED that this action is **DISMISSED** with prejudice because the
2 court lacks subject-matter jurisdiction and, in the alternative, because this action is untimely. The
3 clerk of the court shall enter judgment accordingly and close this action.

4 IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**.

5 DATED: This 9th day of November, 2015.

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8 ROBERT C. JONES
9 United States District Judge
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